

UNITED STATES OF AMERICA
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IMAD HERMEZ)
)
 Plaintiff,)
)
)
 Case No 2:06 CV 12543
 Hon. Lawrence Zatkoff
 Vs-)
)
)
 BALLY TOTAL FITNESS CORPORATION,)
 a Delaware Corporation)
)
)
 Defendant.)

LORELLI & MILOSEVICH
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STIPULATED ORDER OF DISMISSAL WITHOUT
PREJUDICE

At a session of said Court held in the City of

Port Huron, County of St. Clair, on August 9, 2006

Present: Honorable LAWRENCE ZATKOFF
U. S. District Court Judge

This matter having come before the Court on the parties' stipulation and the court being fully informed of the following:

1. That this matter is before this Court on the basis of diversity jurisdiction;
2. That the real defendant in interest as averred by the defendant is Bally's Total Fitness International, Inc which is a Michigan corporation;
3. That because the real defendant is a Michigan corporation, diversity jurisdiction is lacking,
4. That the parties have agreed to dismiss this action without prejudice based on the lack of diversity jurisdiction and
5. That it is the plaintiff's expressed intention of having the matter refiled in state court,

IT IS HEREBY ORDERED that this matter be dismissed without prejudice based on the lack of diversity jurisdiction.

s/Lawrence P. Zatkoff
Honorable Lawrence Zatkoff

I hereby stipulate to the entry of this order:

/s Vincent Lorelli

/s Paul Koczkur